

SENATE BILL 2259
By Dixon

AN ACT to amend Tennessee Code Annotated, Title 56, relative to the use of credit scores in determining personal insurance rates and renewability.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 5, is amended by adding Sections 2 through 5 of this act as a new part thereto.

SECTION 2. As used herein, unless the context otherwise requires:

(1) "Adverse action" means a denial or cancellation of, an increase in any charge for, or a reduction or other adverse or unfavorable change in the terms of coverage or amount of, any insurance, existing or applied for, in connection with the underwriting of personal insurance.

(2) "Consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

(3) "Credit information" means any credit-related information derived from a credit report, found on a credit report itself, or provided on an application for personal insurance. Information that is not credit-related shall not be considered "credit information," regardless of whether it is contained in a credit report or in an application, or is used to calculate an insurance score.

(4) "Credit report" means any written, oral, or other communication of information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing or credit capacity which is used or expected to be used or collected in whole or

in part for the purpose of serving as a factor to determine personal insurance premiums, eligibility for coverage, or tier placement.

(5) "Insurance score" means a number or rating that is derived from an algorithm, computer application, model, or other process that is based in whole or in part on credit information for the purposes of predicting the future insurance loss exposure of an individual applicant or insured.

(6) "Personal insurance" means private passenger automobile, homeowners, motorcycle, mobile-homeowners, non-commercial dwelling fire insurance, boat, personal watercraft, and recreational vehicle policies when those policies are individually underwritten for personal, family or household use.

SECTION 3. An insurer authorized to do business in Tennessee that uses credit information to underwrite or rate risks for personal insurance shall not:

(1) Take an adverse action against a consumer based on credit information, unless an insurer obtains and uses a credit report issued or an insurance score calculated within 90 days from the date the personal insurance policy is first written or renewal is issued.

(2) Use credit information unless the insurer re-underwrites and re-rates the personal insurance policy based upon a current credit report or insurance score upon each renewal of the policy, but not later than once every thirty-six (36) months. An insurer need not recalculate the insurance score or obtain the updated credit report more frequently than once every twelve (12) months. The insurer is not required to comply with this subsection if the insured is in the most favorably-priced tier of the insurer for the type of policy covering the insured or if the insurer has determined not to use credit information in its re-evaluation of the insured upon renewal. Nothing in this subsection shall be deemed to require any insured to use credit information in rating or underwriting.

(3) Use the following as a negative factor in any insurance scoring methodology or in reviewing credit information for the purpose of underwriting or rating a policy of personal insurance:

(A) Credit inquiries not initiated by the consumer or inquiries requested by the consumer for his or her own credit information;

(B) Inquiries relating to insurance coverage, if so identified on a consumer's credit report;

(C) Multiple lender inquiries, if coded by the consumer reporting agency on the consumer's credit report as being from the home mortgage industry and made within ninety (90) days of one another; or

(D) Multiple lender inquiries, if coded by the consumer reporting agency on the consumer's credit report as being from the automobile lending industry and made within ninety (90) days of one another.

(4) Use an insurance score that is calculated using the zip code of the consumer as a factor. The insurer may use a geographic zone or area as a factor in the insurance score so long as no zone or area is smaller than the consumer's county of residence.

(5) Deny, cancel or nonrenew a policy of personal insurance solely on the basis of credit information, without consideration of any other applicable factor independent of credit information.

(6) Base an insured's renewal rates for personal insurance solely upon credit information, without consideration of any other applicable factor independent of credit information.

(7) Take an adverse action against a consumer solely because he or she does not have a credit card account, without consideration of any other applicable factor independent of credit information.

(8) Consider an absence of credit information or an inability to calculate an insurance score in underwriting or rating personal insurance, unless the insurer either treats the consumer as if the consumer had neutral credit information or unless the insurer treats the consumer in a manner otherwise approved by the commissioner of commerce and insurance.

SECTION 4. If an insurer takes an adverse action based on factors that include credit information, the insurer must provide notice to the consumer that an adverse action has been

taken. That notice must contain the reason or reasons for the adverse action, described in sufficiently clear and specific language so that a person can identify the basis for the insurer's decision to take an adverse action. The notice must include a description of up to four (4) factors that were the primary influences of the adverse action. The use of generalized terms such as "poor credit history," "poor credit rating," or "poor insurance score" does not meet the explanation requirements of this section. Standardized credit explanations provided by consumer reporting agencies or other third party vendors are deemed to comply with this section.

SECTION 5. Insurers that use insurance scores to underwrite and rate risks must file their scoring models or other scoring processes with the department of commerce and insurance. A filing that includes insurance scoring may include loss experience justifying the use of credit information. The department must treat the filing as a trade secret of the insurer and protect it accordingly. The filing must be made annually by September 30 of each year.

SECTION 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it